

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2130 of 1988

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MOHANSINH AGARSINH

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioners
GOVERNMENT PLEADER for Respondent No. 1, 4
MR KN RAVAL for Respondent No. 2
NOTICE UNSERVED for Respondent No. 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE J.M.PANCHAL

Date of decision: 04/07/2000

ORAL JUDGEMENT (Per D.M.Dharmadhikari, CJ)

This is a petition by 35 workmen as members of the Watch & Ward Staff of erstwhile Ahmedabad Cotton Manufacturing Company Ltd which was taken over by Gujarat State Textile Corporation (respondent no.2) w.e.f from the appointed dated i.e. 8.11.85 under the provisions of the Gujarat Closed Textiles Undertaking (Nationalisation) Act, 1986.

2. The erstwhile Ahmedabad Cotton Manufacturing Company Ltd, prior to its nationalisation and taking over by the respondent Corporation had closed its activities in unit no.1 from 25.5.1984 and in unit no.2 from 1.6.1984. The present petitioners as employees of Watch & Ward Section continued to discharge their duties till the company was taken over by the Corporation on 8.11.1984. They laid a claim for their wages from 25.5.84/1.6.84 when the units were closed till the taking over of the units by the Corporation on 8.11.1985. They continued to work even thereafter till the voluntary scheme was introduced and they sought for voluntary retirement.

3. The question that was raised in this petition was as to whether the Corporation which has taken over the company under the Nationalisation Act can avoid their liability towards payment of wages to the workmen employed with the erstwhile company? It is on those facts that the provisions of proviso below sub-section 5 of Section 11 of the Nationalisation Act of 1986 were challenged in this Court. This is how this matter was placed before the Division Bench. On 5.7.1993, the Division Bench passed an interim order directing the State Government either itself or through the Corporation to deposit the dues towards the wages of the workmen employed in Watch & Ward Staff.

4. The Learned Counsel appearing for the petitioner and the Counsel appearing for the Corporation as also the Counsel appearing for the State of Gujarat do not dispute the fact that the Commissioner of Payments in exercise of powers under the Nationalisation Act has adjudicated upon the claim and on the directions of this Court contained in order dated 5.7.1993, the dues of the workmen have been deposited in this Court. Ld. Counsel of the parties also inform that a claim for wages for the interim period mentioned above were also laid before the Industrial Tribunal and it has also passed awards in favour of the workmen.

5. As the dues towards wages of the workmen in Watch

and Ward Staff have been deducted from the compensation payable to the owner of the units and are in deposit with this Court, the Counsel appearing jointly make a request that this Court should issue directions for sending that amount in deposit with the Registry of this Court to the Commissioner of Payments for disbursement to individual workman to the extent he is legally entitled. They also submitted that it is no longer necessary now to decide the question of constitutional validity of the provisions of Section 11(5) of the Nationalisation act.

6. On the request jointly made by the Counsel appearing for the parties before us, we direct that the amount in deposit with the High Court in the Registry be sent to the Commissioner of Payment, respondent no.4 with directions to him that the amounts which are due of the workmen (petitioner) be paid to them after scrutinising their individual claims. With these directions, this Special Civil Application stands decided. The Civil Application No. 1936 of 1994 which are not before us also stands disposed of. Rule discharged. No order as to costs.

(D.M.Dharmadhikari, CJ)

(J.M.Panchal, J)

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